

In all cases, awards require a determination by the Secretary that funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

[40 FR 53143, Nov. 14, 1975, as amended at 50 FR 1854, Jan. 14, 1985]

#### **§ 36.107 Use of project funds.**

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the regulations of this subpart, the terms and conditions of the award and the applicable cost principles prescribed in subpart Q of 45 CFR part 74.

(b) The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to section 104(b) of the Act may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

NOTE: This provision is excepted from application of 45 CFR 74.53 by section 104(c) of Pub. L. 93-638.

[40 FR 53143, Nov. 14, 1975, as amended at 50 FR 1854, Jan. 14, 1985]

#### **§ 36.108 [Reserved]**

#### **§ 36.109 Availability of appropriations.**

The Secretary will from time to time publish a notice in the FEDERAL REGISTER indicating by areas the allotment of funds and categories of activities for which awards may be made under this subpart. The Secretary may revise such allotments and categories from time to time and will promptly publish a notice of such revisions in the FEDERAL REGISTER.

#### **§ 36.110 Facilities construction.**

In addition to other requirements of this subpart:

(a) An applicant for a construction grant to build, renovate, modernize, or remodel a hospital, clinic, health sta-

tion or quarters for housing personnel associated with such facilities, must in its application:

(1) Provide its assessment of the environmental impact of the project as called for by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)).

(2) Furnish its evaluation of the project site in accordance with the terms and conditions of E.O. 11296, 31 FR 10663 (August 10, 1966) relating to the evaluation of flood hazards in locating federally owned or financed facilities.

(b) The following requirements are applicable to each construction grant to build, renovate, modernize, or remodel a hospital, clinic, health station or quarters for housing personnel associated with such facilities.

(1) Competitive bids. The approval of the Secretary shall be obtained before the project is advertised or placed on the market for bidding. The approval shall include a determination by the Secretary that the final plan and specifications conform to the minimum standards of construction and equipment specified in the grant award or in HHS documents specified in the grant award.

(2) There will be no preference given to local contractors or suppliers over non-local contractors or suppliers, except as otherwise provided in these regulations.

(3) Construction contracts and subcontracts under this program are subject to the Davis-Bacon Act (40 U.S.C. 276a et seq.). For requirements that grantees must observe for enforcing compliance by contractors and subcontractors, see the section on contract provisions in the procurement standards for HHS grantees made applicable by subpart P of 45 CFR part 74.

(4) Minimum standards of construction and equipment. The plans and specifications for the project will conform to the minimum standards of construction and equipment specified in the grant award or in HHS documents specified in the grant award.

(5) The following provision must be included in all construction contracts let by the grantee: "The Secretary of the Department of Health and Human Services shall have access at all reasonable times to work wherever it is in

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preparation or progress, and the contractor shall provide proper facilities for such access and inspection.”

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### § 36.111 Interest.

Tribes and Tribal organizations shall not be held accountable for interest earned on grant funds, pending disbursement by such organization.

NOTE: This provision is excepted from application of 45 CFR 74.47(a) by section 106(b) of Pub. L. 93-638.

[40 FR 53143, Nov. 14, 1975, as amended at 50 FR 1854, Jan. 14, 1985]

### § 36.112 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

### § 36.113 Fair and uniform provision of services.

Services provided pursuant to a grant under this subpart shall be provided by the Grantee in a fair and uniform manner to all participants in the project consistent with their medical need, the policies and regulations of the Indian Health Service, and the Act.

### § 36.114 Applicability of other Department regulations.

Several other regulations apply to grants under this subpart. These include to the extent applicable but are not limited to:

42 CFR part 50, subpart D, Public Health Service grant appeals procedure

45 CFR part 16, Procedures of the Departmental Grant Appeals Board

45 CFR part 74, Administration of grants

45 CFR part 75, Informal grant appeals procedures

45 CFR part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 86, Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

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45 CFR part 91, Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

NOTE: To the extent they provide special benefits to Indians, grants under this subpart are exempted from the requirements of section 601 of the Civil Rights Act of 1964 [42 U.S.C. 200d], prohibiting discrimination on the basis of race, color or national origin, by regulation at 45 CFR 80.3(d) which provides, with respect to Indian health services, that, “An individual shall not be deemed subjected to discrimination by reasons of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

[50 FR 1854, Jan. 14, 1985]

### § 36.115 Rescission of grants.

(a) When the Secretary determines that the performance of a grantee under these regulations involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any persons, or (2) gross negligence or the mismanagement in the handling or use of funds under the grant, the Secretary will, in writing, notify the grantee of such determination and will request that the grantee take such corrective action, within such period of time, as the Secretary may prescribe.

(b) When the Secretary determines that a grantee has not taken corrective action (as prescribed by him under paragraph (a) of this section) to his satisfaction, he may, after providing the grantee an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the grant in whole or in part and if he deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c) When the Secretary has made a determination described in paragraph (b) of this section, he shall in writing notify the grantee of such determination and of the grantee's right to request a review of such determination (and of the determination described in paragraph (a) of this section) under the Public Health Service Grant Appeals Procedure (42 CFR part 50, subpart D). Such notification by the Secretary shall set forth the reasons for the determination in sufficient detail to enable the grantee to respond and shall